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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,664	02/28/2006	Jean-Marie Finot	0589-1007	6352
466	7590	08/22/2008	EXAMINER	
YOUNG & THOMPSON			SOTELO, JESUS D	
209 Madison Street			ART UNIT	PAPER NUMBER
Suite 500			3617	
ALEXANDRIA, VA 22314				
MAIL DATE		DELIVERY MODE		
08/22/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/537,664	FINOT, JEAN-MARIE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jesús D. Sotelo	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 June 2008.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-10 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 09 June 2008 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

1. Claims 1-10 are in the application.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/09/2008 has been entered.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (5,315,948) in view of Andersen (3,903,826).

Brown discloses a sail 5 designed to be rolled on a reel. Means 6 is provided and designed to be thicker in cross section along the middle and thinner in the ends creating an additional volume in the central part of the reel. Andersen discloses a sail construction wherein the sail is produced from fibers 40, 42, and 44 incorporated between two films, generally as in claim 2. The layers include fibers being parallel to a luff of the sail.

In view of these disclosures, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute for the sail of Brown with a sail

constructed generally as taught by Andersen. The specific materials used in the fibers and the films are deemed to have been obvious matters of design choice to one having ordinary skill in the art. The motivation for substituting the sail would be to provide a more durable sail.

The recitation “non-deformable in compression” referring to the longitudinal fibers and the transverse fibers are deemed to be statements of desired functional result. The fibers of the above combination could be said to be capable of resisting compression, albeit a very small compression force.

5. Claims 1-3, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crall (3,749,043) in view of Andersen (3,903,826).

Crall discloses a sail 18 designed to be rolled on a reel 26. The reel 26 is provided and designed to be thicker in cross section along the middle and thinner in the ends creating an additional volume in the central part of the reel. The reel consists of a generally biconical configuration as shown in figure 3. Andersen discloses a sail construction wherein the sail is produced from fibers 40, 42, and 44 incorporated between two films, generally as in claim 2. The layers include fibers being parallel to a luff of the sail.

In view of these disclosures, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute for the sail of Crall with a sail constructed generally as taught by Andersen. The specific materials used in the fibers and the films are deemed to have been obvious matters of design choice to one having ordinary skill in the art. The motivation for substituting the sail would be to provide a more durable sail. The recitation “non-deformable in compression” referring to the

longitudinal fibers and the transverse fibers are deemed to be statements of desired functional result. The fibers of the above combination could be said to be capable of resisting compression, albeit a very small compression force. To form the sail from a single piece of fabric would have been an obvious matter of design choice to one having ordinary skill in the art.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crall (3,749,043) in view of Andersen (3,903,826), as applied to claim 1 above, and further in view of Nic (Fr 2,676,984).

The use of slats in sails is well known in the art. Although most slats are arranged perpendicularly to the luff, other configurations are used, as in Nic, wherein the slats are located in an “up-down” configuration and parallel to the luff. To provide the sail of Crall with slats arranged parallel to the luff would have been an obvious matter of design choice to one having ordinary skill in the art. It is noted that Nic was cited by applicant.

7. Claims 5, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crall (3,749,043) in view of Andersen (3,903,826), as applied to claim 1 above, and further in view of Shapland (4,269,134).

Shapland discloses a sail mounted on a reel located on the luff. The reel is provided with a fairing forming an aerofoil and having spoilers 27. In view of these disclosures, it would have been obvious to one having ordinary skill in the art to provide the reel of Crall with a fairing generally as taught by Shapland. The use of a fairing would have been desirable to create an aerodynamic structure for the flow of wind around the mast.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesús D. Sotelo whose telephone number is 571-272-6686. The examiner can normally be reached on Mon. - Fri. 7:00 AM -4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jesús D. Sotelo/  
Primary Examiner, Art Unit 3617